

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EMANUEL THOMAS NEWMAN, :

Plaintiff, :

v. : Civil No. 1:CV-01-0677

RONALD L. JURY, et al. :

Defendants. : (Conner, J.)

DECLARATION OF DAVID L. GLASSMAN, ESQ.

1. In 2000, this Honorable Court admitted me to practice before it.
2. On December 4, 2003, Defendants filed their "Response to Plaintiff's 'Motion for Order of Multiple Writs of Habeas Corpus Duces Tecum ad Testificandum.'" "
3. In their Response, the Defendants advised the Court that Rule 45 of the Federal Rules of Civil Procedure requires Plaintiff to subpoena alleged staff witnesses employed by the Federal Bureau of Prisons and to tender mileage fees to such witnesses as well.
4. On January 6, 2004, the Court ordered the Plaintiff to follow the instructions of Rule 45 to subpoena BOP staff witnesses.

5. In March 2004, inmate plaintiff Emanuel Thomas Newman telephoned me from FCI - Oxford, Wisconsin to seek legal advice concerning how he could effect service of subpoenas upon non-incarcerated witnesses located in Pennsylvania.

6. I offered to serve three subpoenas with mileage fee checks for him.

7. In early April 2004, I received in the mail from Mr. Newman three typed documents entitled "Subpoena Duces Tecum for Witness to Attend Civil Trial" along with two attached certificates of service to be executed and three mileage checks for \$40 each.

8. On April 13, 2004, I spoke by telephone with K. Michael Sullivan, counsel at U.S.P. - Allenwood, concerning an agreeable time for me to serve the subpoenas and tender the mileage checks.

9. Mr. Sullivan advised me that Dr. James Weyand is a former contract physician, not a BOP employee. As such, I would not be able to serve Dr. Weyand at Allenwood.

10. Mr. Sullivan further advised me that Rule 45 prohibits BOP staff from accepting mileage reimbursement checks. Therefore, Mr. Sullivan declined my tender of mileage checks to the two BOP employees.

11. On April 14, 2004, I telephoned the Clerk of Courts for the Harrisburg Federal Courthouse out of concern that the Plaintiff had sent me home-made subpoenas rather than formal subpoenas issued by the Clerk.

12. The employee at the Clerk's Office informed me that the Clerk is not authorized to issue civil subpoenas to *pro se* inmates absent a court order granting a motion for issuance of such subpoenas.

13. I decided to attempt service of the two home-made subpoenas of the Plaintiff upon BOP staff since the Clerk of Courts declined to issue subpoenas to the Plaintiff despite the Order of Court dated January 6 for the Plaintiff to attempt to obtain them from the Clerk pursuant to Rule 45.

14. I signed each home-made subpoena pursuant to Rule 45(a)(3).

15. On April 15, 2004, I drove from The Lewisburg Prison Project to U.S.P. Allenwood to attempt to serve subpoenas upon "Associate Warden Craig" and "Captain Robert Farly."

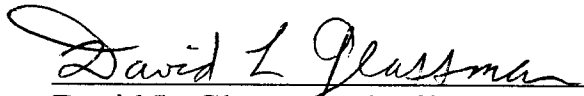
16. Upon my arrival at U.S.P. Allenwood, Mr. Sullivan declined me permission to serve AW Craig and Captain Farly and declined to accept service on their behalf.

17. Mr. Sullivan informed me that AW Craig had begun a vacation that day, had been made aware of the forthcoming subpoena by Mr. Sullivan, and would have refused the subpoena even if he (Craig) was present that day.

18. Mr. Sullivan informed me that Captain Farly was on duty during my visit but declined to request him to meet with me to accept service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 16, 2004.


David L. Glassman, Staff Attorney
Lewisburg Prison Project, Inc.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

Emanuel Thomas Newman,

Vs.

Ronald L. Jury, et al,

Civil no. 1:CV-01-0677

CERTIFICATE OF SERVICE

I, Emanuel Thomas Newman, pursuant to title 28 U.S.C. § 1746, do hereby upon my oath state that I have served all parties to this civil action via the United States Mail Service, of copies of the attached documents.

This 18 day of APRIL, 2004.

By, Emanuel Thomas Newman
Emanuel Thomas Newman

Copies to: U.S. Attorney
315 Federal Building
240 West Third Street
Williamsport, PA 17703

U.S. DISTRICT COURT
CLERK OF THE COURT
225 WALNUT STREET
HARRISBURG, PA 17101*
17108